

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Voxer, Inc. and Voxer IP LLC

Plaintiffs,

v.

Facebook, Inc. and Instagram LLC

Defendants.

Civil Action No. 6:20-cv-00011-ADA

Jury Trial Demanded

AGREED SCHEDULING ORDER

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Court's March 2, 2020 Order Governing Proceedings – Patent Case (Dkt. No. 31), the Court ORDERS that the following schedule will govern deadlines in this matter:

Deadline	Item
April 20, 2020	Plaintiff serves preliminary infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (<i>i.e.</i> the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
June 16, 2020	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the prior two years, unless the parties agree to some other timeframe.

Deadline	Item
June 29, 2020	Parties exchange claim terms for construction.
July 13, 2020	Parties exchange proposed claim constructions.
July 20, 2020	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall also provide a summary of the witness's expected testimony including the opinions to be expressed and a general description of the basis and reasons therefore. A failure to summarize the potential expert testimony in a good faith, informative fashion may result in the exclusion of the proffered testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
July 27, 2020	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
August 3, 2020	Parties file Opening claim construction briefs, including any arguments that any claim terms are indefinite.
August 24, 2020	Parties file Responsive claim construction briefs.
September 8, 2020	Parties file Reply claim construction briefs.
September 14, 2020	Parties submit Joint Claim Construction Statement. In addition to filing, the parties shall jointly submit, via USB drive, cloud-storage, or email to the law clerk pdf versions of all as-filed briefing and exhibits. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
October 9, 2020 9:00 am	<i>Markman</i> Hearing.
October 16, 2020	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
November 20, 2020	Deadline to Add Parties.
December 4, 2020	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.

Deadline	Item
January 4, 2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims.
May 7, 2021	Close of Fact Discovery.
May 14, 2021	Opening Expert Reports.
June 11, 2021	Rebuttal Expert Reports.
July 2, 2021	Close of Expert Discovery.
July 9, 2021	Deadline to meet and confer to discuss narrowing the number of claims asserted and prior art references at issue.
July 16, 2021	Deadline to file a Joint Report re the meet and confer to discuss narrowing the number of claims asserted and prior art references at issue.
July 16, 2021	Dispositive motion deadline and <i>Daubert</i> motion deadline.
July 30, 2021	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
August 13, 2021	Serve objections to pretrial disclosures/rebuttal disclosures.
August 20, 2021	Serve objections to rebuttal disclosures and file motions <i>in limine</i> .
August 27, 2021	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
September 3, 2021	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
3 business days before Final Pretrial Conference	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
September 17, 2021, or as soon as practicable	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.
October 8, 2021, or as soon as practicable	Jury Selection/Trial. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.

ORDERED this _____ day of _____, 2020.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

Dated: April 9, 2020

Respectfully submitted,

By: /s/ Sam Stake

Kate Kaufmann Shih (SBN: 24066065)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
711 Louisiana St., Suite 500
Houston, Texas 77002
Telephone: (713) 221-7000
Fax: (713) 221-7100
kateshih@quinnemanuel.com

Kevin P.B. Johnson (Cal. Bar No. 177129)
Robert W. Stone (Cal. Bar No. 163513)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
555 Twin Dolphin Drive, 5th Floor
Redwood Shores, California 94065
Telephone: (650) 801-5000
Fax: (650) 801-5100
kevinjohnson@quinnemanuel.com
robertstone@quinnemanuel.com

Sam Stake (Cal. Bar No. 257916)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, California 94111
Telephone: (415) 875-6600
Fax: (415) 875-6700
samstake@quinnemanuel.com

J. Mark Mann (SBN: 12926150)
G. Blake Thompson (SBN: 24042033)
MANN | TINDEL | THOMPSON
300 West Main Street
Henderson, Texas 75652
Telephone: (903) 657-8540
Fax: (903) 657-6003
mark@themannfirm.com
blake@themannfirm.com

*Attorneys for Plaintiffs Voxer, Inc. and
Voxer IP LLC*

By: /s/ Paven Malhotra, with permission by
Sam Stake

Michael E Jones (SBN: 10929400)
Patrick C. Clutter (SBN: 24036374)
POTTER MINTON, PC
110 North College, Suite 500
Tyler, Texas 75702
Tel: 903-597-8311
Fax: 903-593-0846
mikejones@potterminton.com
patrickclutter@potterminton.com

Robert Van Nest
rvannest@keker.com
Christa Anderson
canderson@keker.com
David Silbert
dsilbert@keker.com
Eugene Paige
epaige@keker.com
Matthew Werdegarr
mwerdegarr@keker.com
Paven Malhotra
pmaalhotra@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809
Tel: 415-391-5400

*Attorneys for Defendants
Facebook, Inc. and Instagram LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of April, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Robert Van Nest
rvannest@keker.com
Christa Anderson
canderson@keker.com
David Silbert
dsilbert@keker.com
Eugene Paige
epaige@keker.com
Matthew Werdegarr
mwerdegarr@keker.com
Paven Malhotra
pmaalhotra@keker.com
Kristen E. Lovin
klovin@keker.com
Puja V. Parikh
pparikh@keker.com
Philip J. Tassin
ptassin@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809
Tel: 415-391-5400

Michael E Jones
mikejones@potterminton.com
Patrick C. Clutter
patrickclutter@potterminton.com
POTTER MINTON, PC
110 North College, Suite 500
Tyler, Texas 75702
Tel: 903-597-8311
Fax: 903-593-0846

/s/ Sam Stake

Sam Stake